

PROCEEDINGS OF THE COMMON COUNCIL
IN REGULAR _____ SESSION
TUESDAY, SEPTEMBER 14 _____, 19 93

CITY OF FORT WAYNE, INDIANA
JOURNAL OF THE PROCEEDINGS
OF THE COMMON COUNCIL

THE COMMON COUNCIL OF THE CITY OF FORT WAYNE MET IN THE
COUNCIL CHAMBERS Tuesday _____ EVENING September 14 _____, 19 93
IN Regular _____ SESSION. PRESIDENT Mark E. GiaQuinta _____
IN THE CHAIR, COUNCIL ATTORNEY Stanley A. Levine _____, AND
Sandra E. Kennedy _____ CITY CLERK, AT THE DESK, PRESENT THE
FOLLOWING MEMBERS _____ VIZ:

BRADBURY <u>Present</u>	EDMONDS <u>Present</u>	GiaQUINTA <u>Present</u>
HENRY <u>Present</u>	LONG <u>Absent</u>	LUNSEY <u>Present</u>
RAVINE <u>Present</u>	SCHMIDT <u>Present</u>	TALARICO <u>Present</u>

ABSENT: _____

COUNCILMEMBER: _____

THE MINUTES OF THE LAST REGULAR August 24 _____, 19 93
_____, 19 _____
SPECIAL _____, 19 _____

SESSION HAVING BEEN DELIVERED TO THE COUNCIL, WERE, ON MOTION,
APPROVED AND PUBLISHED.

THE COUNCIL THEN ADJOURNED

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of Fort Wayne, Indiana, and as such the custodian of the records of the Common Council of said City and that the above and foregoing is the true, full and complete record of the proceedings the Common Council of the City of Fort Wayne, Indiana, for its Regular Session, held on 14th day of September, 1993, that the numbered ordinances and resolutions shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor and on the dates shown as to each such ordinance and resolution respectively; and that all such records, proceedings, ordinances and resolutions remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 17th day of September, 1993.

Sandra E. Kennedy
City Clerk



THE CITY OF FORT WAYNE



Paul Helmke
Mayor

August 24, 1993

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-04-93, amending Chapter 157 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. Z-93-07-09

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
24th day of August 1992.

Robert Hutner
Secretary

/pb

CC: File

FACT SHEET

Z-93-07-09

BILL NUMBER

**Division of Community
Development & Planning****BRIEF TITLE**

Zoning Map Amendment

APPROVAL DEADLINE**REASON**

From B1B to B3B

DETAILS

Specific Location and/or Address 4215 So Clinton St
Reason for Project Used Car Dealership
Discussion (Including relationship to other Council actions) <u>16 August 1993 - Public Hearing</u> See Attached Minutes of Meeting <u>23 August 1993 - Business Meeting</u> Motion was made and seconded to return the ordinance to the Common Council with a DO NOT PASS recommendation. Of the five (5) members present, five (5) voted in favor of the motion. Motion carried.

POSITIONS**RECOMMENDATIONS**

Sponsor	
Area Affected	City Wide Other Areas
Applicants/ Proponents	Applicant(s) Lucas Smith/Smith Auto Credit City Department Other
Opponents	Groups or Individuals Basis of Opposition
Staff Recommendation	<input type="checkbox"/> For <input checked="" type="checkbox"/> Against Reason Against
Board or Commission Recommendation	By <input type="checkbox"/> For <input checked="" type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

DETAILS

POLICY/ PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No <input type="checkbox"/> Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start

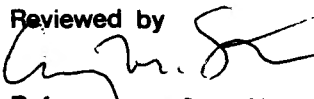
Date 17 June 1993

Projected Completion or Occupancy

Date 24 August 1993

Fact Sheet Prepared by
Patricia Biancaniello

Date 24 August 1993

Reviewed by

Reference or Case Number

Date 8/25/93

- a. Bill No. Z-93-07-09 - Change of Zone #543
4215 So Clinton Street

Mitch Harper, attorney for the petitioners, Smith Auto Credit, appeared before the Commission. Mr. Harper handed out some pictures and information regarding the property to the Commissioners. Mr. Harper stated that the property has been vacant for at least 6 years. He stated that it is overgrown with weeds. He stated that the petitioners are asking for the change in order to operate a used car sales lot. He stated that Smith Auto Credit currently operates 3-locations; Elkhart, South Bend and Goshen. He stated that they have been in business for 14 years. The first site they opened was in Elkhart and they still operate from that original site. He stated that they have never vacated any of their locations, that they are a very stable, established business. He stated that this location is a "gateway" to the city of Fort Wayne and the petitioners are very conscious of that. He stated that this is a deteriorating neighborhood in terms of the commercial sites. He stated that the Lafayette, Clinton corridor from this area nearly all the way to downtown has quite a string of vacant properties. He stated that directly across the street was a car wash facility, which is now closed. He stated that in the handout there were letters of support from neighboring businesses and businesses that are along the Lafayette Clinton corridor. He stated that on their initiative they contacted three neighborhood associations; Lafayette Place, South Calhoun Place and Pettit-Rudisill Neighborhood Associations. He stated that Pettit-Rudisill Neighborhood Association does not comment on areas that our outside of the Neighborhood Association. He stated that the Lafayette Place Neighborhood Association had a Board of Directors meeting and they are neutral on this application for rezoning. He stated that Shirley Cox was present at the meeting as a spokesperson for the South Calhoun Place Neighborhood Association to speak in support of the petition. He stated that there were letters in the packet from residential neighbors of the existing car dealerships, stating what sort of neighbors Smith Auto Credit has made. He presented an architectural rendering to the Commission of the site. He noted that it showed the landscaping plan of the site. He stated that because this is a "gateway" property to the city of Fort Wayne, the owners are very conscious of the impression visitors to this city get as they approach this intersection. He stated that they are planning to have substantial landscaping on the site. He stated that they are currently in negotiations with the owners of the rest of the property between Clinton and Lafayette. He stated if those negotiations are successful they intend to raze the building on that site and also when the Burkhart billboard lease expires have the billboard removed. He stated that they are looking at a substantial improvement on the site.

Lucas Smith, appeared before the Commission representing Smith Auto Sales. He stated that they had been in business 14 years and they have come along way and their business is growing. He stated that they have many plans for expansion and Fort Wayne is an area where they would like to open one or two auto sales lots. He stated that

it would be an asset to the city. He stated that they would be bringing in jobs. He stated that they will have two families that will relocate to Fort Wayne to work the lots. He stated that they would also be hiring local people. He stated that they would be spending money in the city from garage repair bills to buying gas. He stated that they spend currently 2 to 3 thousand dollars per week for just auto repairs. He stated that they plan on making a substantial investment in the property, not just landscaping, they intend to renovate the whole building. He stated that they will be putting up lights and have the lot completely repaved. He stated that their use will not have near the traffic that the prior use of this property had as a Quik Mart Convenience Store. He stated that he really felt that they would be a large asset to the community.

Shirley Cox, of the South Calhoun Street Neighborhood Association and stated that they had a meeting yesterday of the association membership and there was not any opposition to this request. She stated that after reviewing the plans that they presented it would definitely be an improvement to what they have had for the past six years.

Mark Young, 322 E Lexington Ct, of the South Calhoun Neighborhood Association stated that he has been in the area for approximately a year and has noticed that the area in question is definitely an eyesore. He stated that there are people who in the evening tend to gather on the property. He felt that if they had a business there, it would eliminate this problem.

Mr. Harper stated that the staff recommendation of do not pass was based on three reasons. He stated that the first was that approval of the petition would create a "spot zone". He stated that he would like to point out to the Commission that if you start at Lexington & South Wayne that business area, moving east along the same eastern line to Fairfield and Lexington, where you have Hartley's Restaurant and the Phillips 66 Gas Station. Then going to McKinnie & Calhoun where there is another little commercial area, and then to Hanna & McKinnie those are all areas of development that are over 50 years old. He stated that by their very nature they are small commercial areas that are essentially small commercial spots located on that same path and developed at about the same time in the city's history. He stated that there are very few additional uses under the B3B zoning that he believed could be considered detrimental. He stated that the second reason for denial stated that approval would allow for the intensification of uses which could result in increased traffic conflicts. He stated that this use is certainly going to lessen any traffic conflicts compared with what the site had been used for previously as a convenience store/gas station. He stated that he felt there were very few other uses that this site could accommodate under B3B zoning of which that claim could be made of increasing traffic. He stated that he was somewhat puzzled in the last paragraph of the discussion to the statement that the best use of the site would be lower intensity uses intended to serve the area and passing motorists. He stated that this particular use is not intended to

serve passing motorists. He stated that if the Commission is talking about uses that would draw passing motorists, you are talking about very high intensity uses, which the neighborhood does not want.

Dave Ross stated that the reason for the B3B then is that under a B1B the used car lot is not a legal use.

Mitch Harper stated he did not understand the logic, since service stations are allowed under a B1B zoning and an automobile washing station with provision for off street parking for 60 or more cars is allowed under B1 districts. He stated that auto sales for new and/or used vehicle, which are essentially a landscaped lot, paved with parking for display of the vehicles is not allowed. He stated one of the concerns of the neighborhood associations are some of the other uses that are allowed under the current zoning of B1B.

Dave Ross questioned then if it was Mr. Harper's opinion that the car sales lot should be classified under a B1B classification.

Mr. Harper stated that the ordinance is 25 years old. He stated that he was not aware which of the uses under B3B that are more intensive than the uses that are already allowed under B1B.

Dave Ross questioned if a zoning variance has been considered so that the Commission does not spot zone just this area.

Mitch Harper stated that it may be spot zoning on that property alone, but they are also looking at a substantial improvement to that property.

He stated that he had spoken with a couple of the area business people and they want some signal from the city that there is something being done about this corridor. He stated that only if the city expands the types of businesses that can go into these spots are you going to have economic development.

Don Schmidt asked if Mr. Harper would characterize the fact that the marketplace has already said that the B1B is inappropriate, since it has been on the market for 6 years and not been developed.

Mitch Harper stated that the marketplace has not only spoken on that spot but the other donut location at that spot and the abandoned car washing station. He stated that you can go up Lafayette Street and see that the marketplace has spoken on a lot of other places. He stated that next weekend there will be an auction of the Parrot Meat Facility, one more business going out of that area. He stated that aside from the new medical center going in at Pontiac and Lafayette it is hard to find a lot of "bright spots".

Mel Smith questioned if they would be doing any body work on the property.

Mr. Harper stated that they do not intend to do any auto repair on

the site, that will be additional business for small businesses located in that area. Mr. Harper stated that they will renovate the existing building and if they are able to acquire the property that is in front of them they will knock down the old gas station that is there and ultimately remove the billboard.

Mel Smith stated that the Commission tries to stay away from spot zoning. He stated that they try to pursue other avenues. He questioned whether they would be willing to try for a variance. He stated that it would be through the Board of Zoning Appeals.

Mr. Harper stated that they have considered applying to the Board, but he felt that only by opening up zoning to greater potential uses along that corridor are you going to be able to attract capital, expand business and get rid of vacant lots. He stated that is why they are before the Plan Commission and not pursuing a variance.

Dave Ross asked Wayne O'Brien, staff planner, if the Auto Zone that was just constructed on the corner of Rudisill and Lafayette was zoned B1B.

Mr. O'Brien stated that it is zoned B1B and their business fits the classification of a B1B. He stated that they are engage in the sale of automobile parts they do not have any auto repair on the property or in the facility.

Dave Ross asked if there is any consideration at this time in reviewing the different land uses within the Zoning Ordinance to try an update on the land uses.

Mr. O'Brien stated that one of the things that the staff has proposed is an evaluation of the Zoning Ordinance that may lead into, hopefully a rewrite of some of the sections. One of the things they will be looking at is making sure that they have slotted uses in the correct zoning classifications. He stated that obviously the staff of Land Use Management and Economic Development shares Mr. Harper's and the neighborhoods interest in trying to do something to see new development along that corridor. He stated that they are also very concerned because they have a mixed commercial and residential. While we want to see development, we do not want to see development at the price of the residential districts that are already established. He stated that we are looking for something that will allow us to blend the two together for hopefully a much stronger city and a much stronger neighborhood.

Dave Ross stated that Lafayette is on the State Highway system and they are trying to upgrade a portion of that roadway to increase traffic use through that corridor. He stated that the city just finished a study looking at developing a "super boulevard" in that area to try and buffer the residential from the high volumes of traffic. He stated he did not think at that time that they were really concerned about businesses, that the exposure was actually

pretty complementary for businesses.

Don Schmidt stated that these former gas stations are real albatrosses. He stated that they have buried tanks and no one wants to buy them because they are faced with a terrific expense of getting rid of the tanks. He stated, that it could be, unless you have a very profit oriented business in there, that no one is going to look at the property. Mr. Schmidt questioned if the tanks were still in the ground on this property.

Mr. Harper stated that they were still in there. He stated that he was under the impression that 60 days after a gas station has been vacant the tanks are to come out.

Don Schmidt questioned if Mr. Harper's client would remove the tanks.

Mr. Harper stated that they would. He questioned why there has not been any enforcement regarding the removal of the tanks.

Ernest Evans stated that one of the areas that concerns some of the Commissioner's is under the B3B are the recreational enterprises. He stated that thinking of this property as a used car lot that would not generate a large amount of traffic is one thing, but once you get into recreational enterprises which allows for dance halls, nightclubs, shooting galleries and penny arcades, if in a few years this car lot goes out, it could be highly detrimental to the neighborhood. He questioned if there was any thought or willingness of a possible restriction to be imposed.

Mr. Harper stated that directly across the street is a bar. He stated that when he spoke with Chuck Layton about the site he (Chuck Layton) was well acquainted with it because there had been complaints from the neighbors about patrons of the bar who park in the vacant area. He stated that there is already a tavern in that area. He stated that he does not know what the difference would be between a nightclub and a tavern. He stated that in terms of entertainment facilities you can find entertainment facilities that are currently allowed in the B1B, like the ones that are described under the B3B.

Mel Smith questioned if the Commission denies this request would they be willing to apply for a variance to the Board of Zoning Appeals.

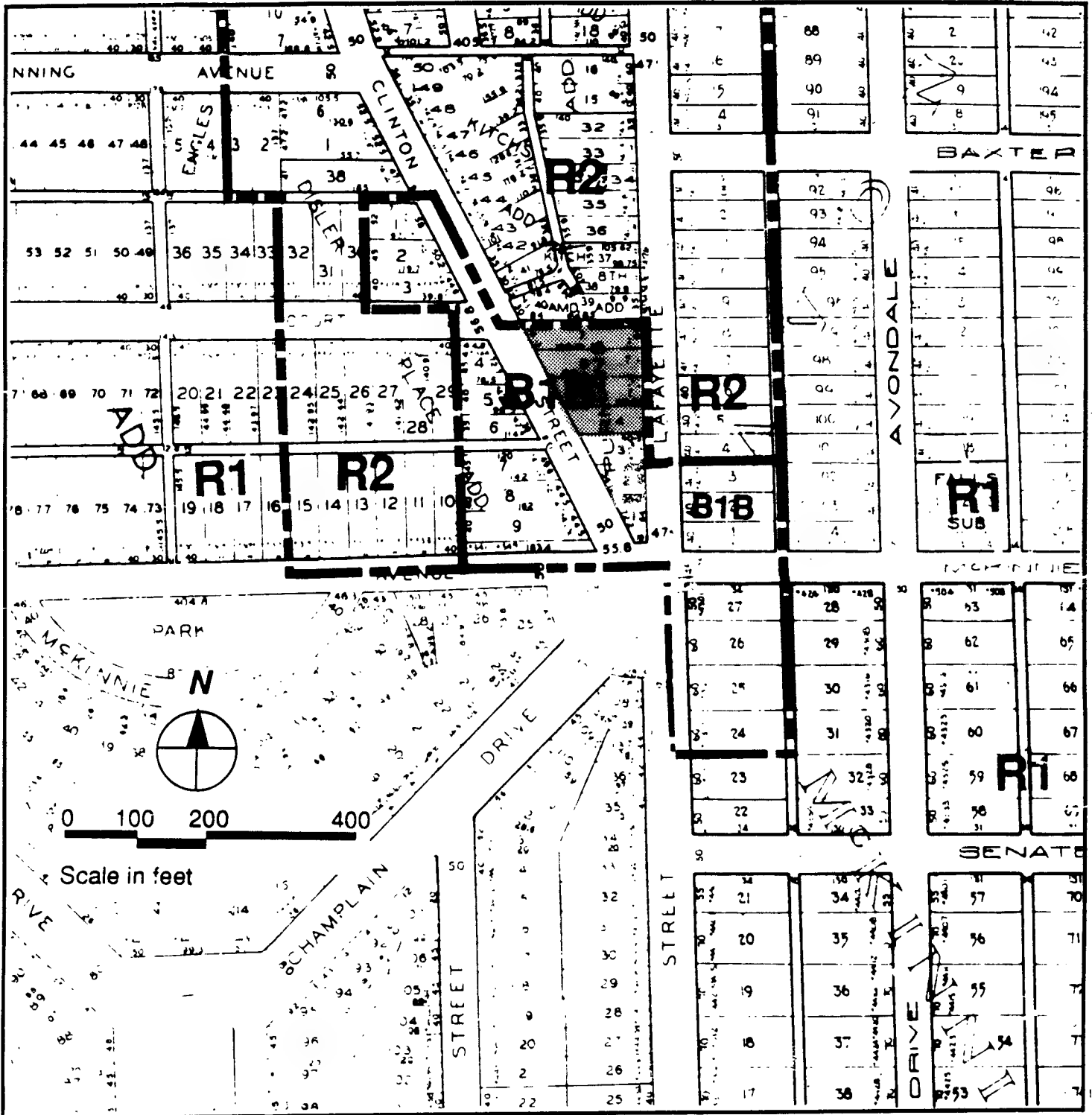
Mitch Harper stated that he thought they would.

There was no one else present who spoke in favor of or in opposition to the proposed rezoning.

REZONING PETITION

AREA MAP

CASE NO. #543



COUNCILMANIC DISTRICT NO. 5

Map No. M-11
LW 6-29-93

R1	One-Family	B1	Limited Business	M1	Light Industrial
R2	Two-Family	B2	Planned Shopping Center	M2	General Industrial
R3	Multi-Family	B3	General Business	M3	Heavy Industrial
RA/RB	Residential	B4	Roadside Business	MHP	Mobile Home Park
PUC	Planned Unit Dev.	POD	Professional Office District		

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana on July 27, 1993 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-93-07-09; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on August 16, 1993.

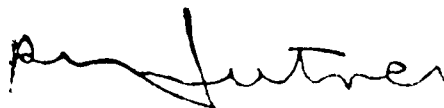
NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO NOT PASS recommendation based on the following "Findings of Fact".

- (1) the grant will be injurious to the public health, safety, morals and general welfare of the community;
- (2) the use or value of the area adjacent to the property included in the rezoning will be affected in a substantially adverse manner;
- (3) the need for the rezoning does not arise from conditions peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;
- (4) the strict application of the terms of the zoning ordinance will not constitute an unusual an unnecessary hardship to this property;
- (5) the grant interferes substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law; and,

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held August 23, 1993.

Certified and signed this
24th day of August 1993.



Robert Hutner
Secretary

Lucas Smith, agent for National Oil Company, requests a change of zone from B-1-B to B-3-B.

Location: 4215 South Clinton Street

Legal: Lots 4, 5, 6, & 7 Purmans 1st Addition

Land Area: Approximately 0.27 acres

Zoning: B-1-B

Surroundings:

North	R-2	Residential
South	B1B/R-1	Commercial & Residential
East	R-2	Residential
West	B1B/R-2	Commercial & Residential

Reason for Request: Not stated on petition.

Neighborhood Assoc.: Lafayette-Clinton Neighborhood Association

Comprehensive Plan: The general land use policies of the Comprehensive Plan states that development proposals should be compatible with existing and planned land uses and should not establish an undesirable precedent in the area to be developed.

This property is located within the Middle Ring. The goal of the Middle Ring is to maintain investments and prevent deterioration in existing neighborhoods.

Neighborhood Plan: No Comment.

Landscape: Although the site is presently very unattractive, B-3-B zoning would allow some very unattractive, nuisance creating uses which are incompatible with the residential character of the area. B-1-B neighborhood oriented business use should be encouraged at this site.

Planning Staff Discussion:

This property consists of multiple through lots with frontage on both Lafayette and Clinton Streets. It was used previously as a service station, but has been vacant for some time. Neighbors have had some complaints in the past about the condition of the site, and its accessibility. However, we do understand that the owners have been working with the area residents in order to maintain the site.

As the Plan Commission can see from the area map included in the agenda, the general area surrounding this petitioned property is primarily zoned residential with some limit area designated B-1-B. The area residential properties share an exposure to relatively high traffic volumes along Clinton and Lafayette Streets, but also share strong neighborhood dynamics and identities. There are at least three active neighborhood associations that would be impacted by the reuse of this site.

The B-1-B is a limited business designation that allows approximately 90 retail or office uses. The B-3-B designation is a more intense classification permitting retail and service uses. There are no B-3-B zoned properties in the area.

While we will admit that a vacant property does little to improve or even maintain the value of an area, we also believe that development must be appropriate and compatible with the area. Staff evaluates all rezoning petitions against an established criteria that includes the Comprehensive Plan, condition and character of development in the area, conservation of property values, an evaluation of the highest or best use of the property, and the principles of responsible development and growth.

There are some uses in the area that are not permitted under the B-1-B classification, such as a used car sales lot directly south of this site. (We are not aware whether those uses were established under the non-conforming provisions of the zoning ordinance, or whether they have been converted without benefit of permits.) But overall the character of this area is residential. The requested B-3-B zoning is a more intense business classification that permits repair and service facilities among other uses, some of which could have negative impacts on the area. Intensification of permitted uses in the area could result in a deterioration of overall property values, and could result in increases in traffic conflicts.

Staff feels that the existing zoning designation represents the highest and best use of the property. The existing zoning and the size of the parcel would appear to dictate that the best use of the site would be in lower intensity uses intended to serve the area and passing motorists.

Recommendation: Do Not Pass for the following reasons:

- 1) Approval of this petition would create a "spot zone".
- 2) Approval could allow a number of uses which could be detrimental to the property values of the surrounding area.
- 3) Approval would allow for intensification of uses which could result in increase traffic conflicts, and deterioration of existing area development.



THE CITY OF FORT WAYNE



Paul Helmke
Mayor

August 24, 1993

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Dear Councilmembers:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-04-93, amending Chapter 157 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. Z-93-08-07

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
24th day of August 1992.

Robert Hutner
Secretary

/pb

CC: File

FACT SHEET

Z-93-08-07

BILL NUMBER

**Division of Community
Development & Planning**

BRIEF TITLE

APPROVAL DEADLINE

REASON

Zoning Ordinance Amendment

DETAILS**POSITIONS****RECOMMENDATIONS**

Specific Location and/or Address N/A	Sponsor City Plan Commission
Reason for Project Expands permitted uses in the B-2-C and B-2-D Districts.	Area Affected City Wide Other Areas
Discussion (Including relationship to other Council actions) <u>16 August 1993 - Public Hearing</u> See attached minutes of meeting. <u>23 August 1993 - Business Meeting</u> Motion was made and seconded to return the ordinance to the Common Council as amended. Of the five (5) members present, five (5) voted in favor of the motion. Motion carried.	Applicants/Proponents Applicant(s) Land Use Management - C&ED City Department Other
	Opponents Groups or Individuals Basis of Opposition
	Staff Recommendation <input checked="" type="checkbox"/> For <input type="checkbox"/> Against Reason Against
	Board or Commission Recommendation By <input checked="" type="checkbox"/> For <input type="checkbox"/> Against <input type="checkbox"/> No Action Taken <input type="checkbox"/> For with revisions to conditions (See Details column for conditions)
CITY COUNCIL ACTIONS (For Council use only)	<input type="checkbox"/> Pass <input type="checkbox"/> Other <input type="checkbox"/> Pass (as amended) <input type="checkbox"/> Hold <input type="checkbox"/> Council Sub. <input type="checkbox"/> Do not pass

DETAILS

POLICY/ PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No <input type="checkbox"/> Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start

Date 2 August 1993

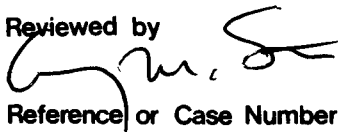
Projected Completion or Occupancy

Date 24 August 1993

Fact Sheet Prepared by
Patricia Biancaniello

Date 24 August 1993

Reviewed by



Date

8/25/93

Reference or Case Number

- a. Bill No. Z-93-08-07 - Ordinance Amendment #545
Chapter 157 - Section 157.033 (F) (3) (d) 3 - Permitted
Uses includes all B3B uses and additionally hotels,
motels, private lodges or clubs, and house accessory
display or sales store.

Wayne O'Brien, staff planner with C&ED appeared before the Commission. Mr. O'Brien stated that from time to time the staff is asked to look at a specific use and to reevaluate where that use would fit into the Zoning Ordinance. He stated that one of the uses that has come up recently is a "house accessory display or sales store". He stated that the staff has looked at the issue because it currently is classified in the Ordinance in the B3 section. He stated that after an extensive evaluation at the staff level, it was the staff's suggestion that a "house accessory display or sales store" is appropriate use in a B-2-C or B-2-D. These are both planned shopping centers, the one (B2C) being a Metropolitan the other (B2D) being a Regional Shopping Center. He stated that concurrent with that they had a request from a local attorney, Jim Federoff, for the staff to look at the purpose section of the B-2, that the existing language could be interpreted to say that we are looking at a blend of mixed uses, not allowing the possibility of a singular use. The policy of the Plan Commission and the policy of the planning staff, historically has been to allow single uses when appropriate within the classification. He stated that examples of that would be the Meijer development, which is a B2D located at Getz & Illinois Road. Also, the first phase of Apple Glen is a singular Wal-Mart store. He stated that they have taken the position that a singular use is appropriate in a B2, when the use meets the overall intent of providing the multiple services, the multiple goods to the consuming public. With that they have a letter that was included in the agenda signed by Mr. Gregg LaMar, Director of C&ED which brings up the reference to Mr. Federoff's language. He stated that staff has worked with Mr. Federoff and they have proposed the addition of the paragraph that is in the letter from Mr. LaMar. He stated it will allow not only the existing language for the harmonious arrangement of different establishments or businesses that will serve the community but also adds the language whereby a single business or use, when such business or use, satisfies the purpose of the classification. He stated that they are suggesting to the Plan Commission that both the home accessory display and sales store is an appropriate use for the B2C & B2D, or higher classifications, and the staff is also in agreement with Mr. Federhoff that they would like to clean up the language in the purpose section, so that clearly the Plan Commission and the staff are in the position where they can wholeheartedly endorse development of a planned shopping center, either for a singular user or for a blend of users.

Dave Ross questioned that when the staff did their classifications do they also consider the size of the use and the trip generations or is it based upon the definition of the use.

Mr. O'Brien stated that at this point the size of the individual store is not regulated by the Ordinance. He stated that trip generations and size of store would come more into an actual review of the site plan. He stated that what the staff is typically looking at is for example the difference between a B-1-B and a B-3. B-1 is intended to be a Limited Business District where B-3 is a General Business District. He stated that the staff could give you the argument that the B-1 uses, because they are limited, are typically established in areas to serve predominantly the residents in the area, the drive by public. He stated that they are not typically uses that would draw people from across town. In the B-3 we do allow uses like the auto sales, where if an auto dealer is going to try and exist on the commerce from one neighborhood, he probably is not going to do well. He needs to be able to draw from a much larger marketing area. He stated that since the B-2 districts are shopping centers, we are looking at not only a primary draw market, but also a secondary draw market. He stated that secondary draw market would be pretty extensive. In the case of the B-2-D they are looking at secondary markets that will extend into Michigan, Ohio and Illinois.

James Federoff, attorney appeared before the Commission on behalf of Lowe's Companies Inc. He stated he was there to speak on behalf of the text amendment. He stated that he felt the text amendment will eliminate any doubt in everyone's mind whether Lowe's can go into a shopping center.

There was no one else who spoke in favor of or in opposition to the proposed amendment.

RESOLUTION OF ZONING ORDINANCE TEXT AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on August 10, 1993 referred a proposed text amendment which proposed amendment was designated as Bill No. Z-93-08-07; and,

WHEREAS, the required notice of public hearing on such proposed amendment has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed amendment on August 16, 1993.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this amendment be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".


(1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held August 23, 1993.

Certified and signed this
24th day of August 1993.



Robert Hutner
Secretary



MEMORANDUM

TO: Members of the Plan Commission
FROM: Gregg Lamar, Director of Community & Economic Development
RE: Proposed Amendment to the B-2-C District

Staff has prepared an amendment to the B-2-C Section of the Zoning Ordinance that would allow a "house accessory display or sales store" as a permitted use.

Attorney James Federoff has requested that we consider adding additional language that would clarify our present administrative policy regarding singular uses within B-2 developments. That language would change the last sentence in the purpose section to:

"The B-2 District is intended to be utilized by a harmonious arrangement of different establishments or businesses that will serve the community, or by a single business or use when such business or use satisfies the purpose of this classification."

As the Commission is aware, it has been our policy to allow single-user development under the B-2 designations, when the purpose of the classification is being satisfied. This new language would clearly address that issue, and would expand permitted uses to include a "Lowe's" or "Home Depot" type of development to be constructed under this classification.